

**TITLE 2**

**BUSINESS REGULATIONS AND LICENSING**

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### **BUSINESS REGULATIONS AND LICENSING**

#### **Chapters:**

- 2.01 Cable Television System**
- 2.04 Video Service Franchise Fees**
- 2.06 Mobile Food Vendors**
- 2.08 Commercial Solar Energy Systems**

## Chapter 2.01

### CABLE TELEVISION SYSTEM

#### Sections:

- 2.01.005 Scope and Applicability
- 2.01.110 Initial Rate Filings by Operator
- 2.01.120 Initial Town Review
- 2.01.130 Supplementary Filings
- 2.01.210 Final Rate Effective Immediately and Released to the Public and the Operator
- 2.01.220 Proposed Rate or Refunds
- 2.01.230 Changes in the FCC Benchmark
- 2.01.310 Remedial Requirements of Operator
- 2.01.320 Certification
- 2.01.330 Bookkeeping
- 2.01.340 Complete Filing
- 2.01.350 Information Requests
- 2.01.410 Administration
- 2.01.420 Waiver
- 2.01.500 Penalties and Forfeitures
- 2.01.610 Rate Filing Public Information, Unless Designated Confidential
- 2.01.620 Confidential Information to be Submitted Separately
- 2.01.630 After Filing Information cannot be Designated Confidential
- 2.01.640 Requests for Confidentiality
- 2.01.650 Appealing Confidentiality Denial

**2.01.005 Scope and Applicability.** This Chapter governs the regulation of rates for basic service and equipment within the Town for any Operator. The provisions set forth below are intended to be consistent with all Federal Communications Commission (“FCC”) regulations governing the regulation of basic service rates and equipment, and the Town will regulate and interpret its rules so that they are consistent with FCC regulations, as if those regulations were set forth in full herein; an Operator is prohibited from engaging in any activity it is prohibited from engaging in under FCC rules, as if those rules were set forth in full herein. For purposes of these provisions, the term “basic service” or “basic cable service” has the same meaning, as the term “basic service” at 47 C.F.R. S 76.901 and the term “equipment” refers to all equipment and services subject to regulation under 47 C.F.R. S76.923. (Ord. 94-1, Jan. 18, 1994)

## FILING AND REVIEW OF RATES

### **2.01.110 Initial Rate Filings by Operator.**

- (1) Filings: When Made. An Operator that is notified that its basic service and equipment rates are subject to regulation must file a submission, (“the rate filing”), within thirty (30) days of the notification, justifying its then-existing basic service and equipment rates. All rates, for all customer classifications, must be justified. Once an Operator has been sent notice by the Town that its rates for basic service or equipment are subject to regulation, it may not thereafter increase its rates for basic service or equipment without the prior approval of the Town. This requirement applies in all cases, including with respect to increases in rates announced prior to the date the Operator was notified its rates were subject to regulation where the increases were not implemented prior the date of notice. An Operator must submit a rate filing to justify any increase in basic service or equipment rates or any new basic services or equipment rates, (collectively referred to herein as “rate increases”). An “increase” occurs when there is an increase in rates or a decrease in program or customer services. Rate filings proposing and supporting rate increases must be filed for review at least thirty (30) days in advance of the proposed effective date of the increase. This requirement does not alter or eliminate any other notice requirement. (Ord. 94-1, S1.1.1, Jan. 18, 1994)
- (2) Filing: Where Made. Every rate filing must be submitted to the Clerk-Treasurer. A rate filing shall be considered filed for review on the date the rate filing and all required copies are received by the Clerk-Treasurer. Four (4) copies of each rate filing, (including all supporting materials, must be submitted. (Ord. 94-1, S1.1.2, Jan. 18, 1994)
- (3) Filing: Contents. Subject to any FCC regulations governing the burden of proof, a rate filing submitted by an Operator must show that the rates the Operator proposes to charge for basic service and equipment are reasonable. Except as inconsistent with FCC rules:
  - A. Every rate filing must clearly state in a cover letter whether it justifies existing rates; or proposes an increase in rates. The cover letter must also identify any rate that is derived in whole or in part based upon cost of service and that any pages of the rate filing that contain information that the Operator claims is confidential have been submitted in accordance with Section 2.01.610 - 2.01.650 of this Chapter. It must state whether any part of the proposed increase is based on an inflation adjustment or an alleged increase in external costs. The cover letter should also contain a brief, narrative description of any proposed changes in rates or in service.

- B. The pages of each rate filing must be numbered sequentially.
  - C. The rate filing must contain all applicable FCC forms and these forms must be correctly completed.
  - D. If different rates are proposed for basic service for different classes of customers, the filing must show that the classifications and the differences in the rate charged are reasonable and consistent with Federal Law. (Ord. 94-1, S1.1.3. 18, 1994)
- (4) In addition to information the Town requires the Operator to provide and unless the Town grants a waiver of this provision, an Operator who seeks to justify all or any part of its rates based upon its cost of service must submit a complete cost of service analysis that shows all expenses it incurs and all revenues derived from the system, directly or indirectly by the Operator or any person that constitutes a cable Operator of the system within the meaning of 47 U.S.C. S522(5). The cost of service must identify the accounting level, (as that term is used in the FCC's regulations), at which each expense or revenue identified was aggregated and show clearly how the expense or revenue was allocated. The Operator may not include costs at an accounting level unless it also includes all revenues from that same level attributable to the system or to a group of systems of which the system serving the Town is a part. The replacement cost of a comparable system must be identified and supported. The Operator must identify the name and address of any entity with which it has a contract, other than a programmer, which derives revenues from the system, and must state whether and how the revenues of that entity were included in the cost of service. In addition, the cost of service shall clearly show the derivation of a proposed charge per channel and the application of that charge to yield a basic service rate. (Ord. 94-1, S1.1.4, Jan. 18, 1994)
- (5) Notwithstanding the foregoing, an Operator is not required to submit the cost of service specified in Section 2.01.110(4) for a particular service or equipment rate where the FCC has prescribed the forms that must be used to support its cost of service for that service or equipment rate. Instead, the Operator shall complete, submit and support its costs of service using the required FCC forms and presenting any other information the Council, (hereinafter "Council"), deems necessary or appropriate, consistent with FCC regulations. Any cost of service submitted to justify basic service rates must show that the cost of service does not include costs associated with equipment or services for which a separate charge other than a basic service charge is levied. (Ord. 94-1, S1.1.5, Jan. 18, 1994)

### **2.01.120 Initial Town Review.**

- (1) The Clerk-Treasurer promptly shall publish a notice of a filing, and that except for those parts which may be withheld as confidential, it will be available for public review. The notice shall state that interested parties may comment on the filing, either by written comment or in person, at a meeting of the Town Council held for this purpose. The Operator may respond to public comments or the Council's recommendations and participate in any discussion thereof. (Ord. 94-1, S1.2.1, Jan. 18, 1994)
- (2) Within thirty (30) days of the date of the filing, the Council shall issue a written order ("initial rate order"), which may be in any lawful form, approving the proposed rate in whole or in part; denying the proposed rate in whole or in part; or tolling the proposed rate in whole or in part. If the Council tolls the rate in whole or in part, its written order shall explain that it requires additional time to review the rate filing and state that the Operator may cure any deficiency in its filing by submitting a supplementary filing as provided in Section 2.01.130. With respect to existing rates, tolling means the rates may remain in effect, subject to refund; with respect to rate changes, tolling means the portion of the rate change that is tolled may not go into effect. (Ord. 94-1, S1.2.2, Jan. 18, 1994)

### **2.01.130 Supplementary Filings.**

- (1) If a proposed rate is tolled in whole or in part, the Operator shall submit a supplementary filing within twenty (20) days from the date the tolling order issues, containing corrections, if any, to its filing, (including any required supplement to its cost of service filing), and any response to information filed by interested parties or to the recommendations of the Clerk-Treasurer or any additional information necessary to support the proposed rate. Supplementary filings must be filed in accordance with Section 2.01.110(2). (Ord. 94-1, S1.3.1, Jan. 18, 1994)
- (2) A supplementary filing also must contain such information as the Council directs the Operator to provide. (Ord. 94-1, S1.3.2, Jan. 18, 1994)
- (3) In addition to information the Council requires the Operator to provide, and unless the Council grants a waiver of this provision, an Operator who claims that it is entitled to a rate in whole or in part based upon the adjustments for inflation and external costs contemplated by 47 C.F.R. S76.922(d) (1) - (2) must submit the following:
  - A. a calculation showing how each part of the adjustment was derived; and

- B. a statement itemizing each external cost, (as defined by FCC regulations), the amount of that external cost for the two (2) calendar years prior to the date of the filing and the year-to-date in which the filing is made; and the projected amount of the external cost for the remainder of the year in which the filing is made and for the following calendar year. The statement must specifically show any increases in revenues from programming services. “Revenues” include all revenues, in whatever form received; and
  - C. if the increase is attributable to any increase in programming services costs, the contract for each programming service whose cost has increased; a sworn statement identifying each programming service whose costs increased where the programmer is an affiliate of the Operator (as defined by FCC regulations); and, for any contract that has been in effect less than twelve (12) months, the prior contract for the service; and
  - D. a sworn statement by the Operator’s chief financial officer or an independent, certified accountant stating that he or she has examined all external costs (including all programming costs) and has offset against any increase claimed, the amount of any decreases in external costs, and the amount by which any increase in external costs was below the Gross National Product Price Index published by the Bureau of Economic Analysis of the United States Department of Commerce (GNP-PI), as required by 47 C.F.R. S76.922(d) (2); affirming that the Operator has only sought to recover any external cost to the extent that cost exceeded the GNP-PI; and affirming that the Operator has not attempted to recover any increase in the cost of programming purchased by an affiliate except as provided in 47 C.F.R. S76.922(d) (2) (vi). (Ord. 94-1, S1.3.3, Jan. 18, 1994)
- (4) The Council shall issue a written order, (“final rate order”), which may be in any lawful form, approving the proposed rate in whole or in part; denying the proposed rate in whole or in part; or allowing the rate to go into effect in whole or in part, subject to refund. If the Council issues a final rate order allowing the rates to go into effect subject to refund, it shall also direct the Operator to maintain an accounting in accordance with 47 C.F.R. S76.933. (Ord. 94-1, S1.3.4, Jan. 18, 1994)
- (5) The final rate order specified in Section 2.01.130(4) shall be issued ninety (90) days after the tolling order for any rate the Operator justifies based on the FCC benchmark. The final rate order shall be issued within one hundred fifty (150) days of the tolling order for any rate the Operator justified with a cost of service showing. (Ord. 94-1, S1.3.5, Jan. 18, 1994)

## **PROVISIONS GENERALLY APPLICABLE TO INITIAL AND FINAL RATE ORDERS**

**2.01.210 Final Rate Effective Immediately and Released to the Public and the Operator.** Any initial or final rate order of the Council shall be effective immediately. Each rate order shall be released to the public and the Operator. (Ord. 94-1, S2.1, Jan. 18, 1994)

**2.01.220 Proposed Rate or Refunds.** The Council may take any steps that it is not prohibited from taking by Federal Law to protect the public interest as part of any initial or final rate order or by any other means. By way of illustration and not limitation, it may require refunds, set rates, and impose forfeitures and penalties directly or through its delegated representatives, and enforce refund orders. However, before prescribing a rate or ordering a refund to subscribers, the Council shall ensure the Operator has had notice and opportunity to comment on the posed rate or refunds. (Ord. 94-1, S2.2, Jan. 18, 1994)

**2.01.230 Changes in the FCC Benchmark.** No order approving or setting a rate using the FCC benchmarks shall be interpreted to establish the just and reasonable rate to subscribers. Every such rate approved or established shall be subject to further reduction and refund to the extent permitted under applicable laws and regulations, as the same may be amended from time to time. By way of illustration and not limitation, should the FCC reduce the benchmarks, the Town shall have the right to reduce an Operator's rates and to require the Operator to refund any amounts collected above the benchmark, except to the extent prohibited by Federal Law. (Ord. 94-1, S2.3, Jan. 18, 1994)

## **OPERATORS DUTIES**

**2.01.310 Remedial Requirements of Operator.** An Operator must implement remedial requirements, including prospective rate reductions and refunds, within sixty (60) days of the date the Council issues a final rate order mandating a remedy. (Ord. 94-1, S3.1, Jan. 18, 1994)

**2.01.320 Certification.** Within ninety (90) days of the date a final rate order mandating a remedy is issued, an Operator must file a certification, signed by an authorized representative of the cable company, stating:

- (1) whether the Operator has complied fully with all provisions of the Council's order; and
- (2) describing in detail the precise measures taken to implement the Council's order; and
- (3) showing how refunds, (including interest), were calculated and distributed. (Ord. 94-1, S3.2, 3.2.1, 3.2.2, 3.2.3, Jan. 18, 1994)



**2.01.330 Bookkeeping.** It is each Operator's responsibility to keep books and records of account so that it can refund any amounts owed to subscribers. (Ord. 94-1, S3.3, Jan. 18, 1994)

**2.01.340 Complete Filing.** It is each Operator's duty to submit as complete a filing as possible, and knowingly withholding information or making a filing that is incomplete under applicable law shall be treated as an evasion of this regulation. (Ord. 94-1, S3.4, Jan. 18, 1994)

**2.01.350 Information Requests.**

- (1) An Operator and any other entity that has records of revenues or expenses that are allocated to the Operator's system must respond to requests for information from the Town by deadlines established by the Council. An Operator is responsible for ensuring that such other entity responds to the Town's request. (Ord. 94-1, S3.5.1, Jan. 18, 1994)
- (2) Because Federal Law limits the time available for an initial response to a filing by an Operator, the Operator must be prepared to respond to requests for information regarding its filing that are made before the initial rate order contemplated by Section 2.01.120 issues within five (5) days of the date an information request is provided to it. Such information requests may include the information the Operator would be required to provide as part of any supplementary filing. (Ord. 94-1, S3.5.2, Jan. 18, 1994)

**DUTIES OF CLERK-TREASURER AND TOWN COUNCIL**

**2.01.410 Administration.** The Clerk-Treasurer shall be responsible for administering the provisions herein. Without limitation and by way of illustration:

- (1) The Clerk-Treasurer shall ensure notices are given to the public and each Operator as required herein and by FCC regulations. Any notice required by these regulations can be provided by publication, by mail, or any other reasonable means.
- (2) The Council may submit requests for information to the Operator and establish deadlines for response to them, as provided in Section 2.01.310 - 2.01.350. Requests may be made by mail or any other reasonable means. (Ord. 94-1, S4.1, 4.1.1, 4.1.2, Jan. 18, 1994)

**2.01.420 Waiver.** For good cause, the Council may waive any provision herein or extend any deadline for filing or response except as to such matters as are mandatory under FCC regulations. (Ord. 94-1, S4.2, Jan. 18, 1994)

**2.01.500 Penalties and Forfeitures.** Except as prohibited by Federal Law, an Operator shall be subject to penalties and forfeitures, the Town's attorney fees in enforcing this Chapter, and its request for approval of a rate may be denied if it:

- (1) knowingly submits false or fraudulent information to the Town in connection with any rate proceeding; and
- (2) fails to comply with any lawful order or request of the Town, including but not limited to, a request for information or an order setting rates; or
- (3) evades or attempts to evade Federal or local rate regulations. (Ord. 94-1, S5.1, 5.2, 5.3, Jan. 18, 1994)

### **CONFIDENTIAL INFORMATION**

**2.01.610 Rate Filing Public Information, unless Designated Confidential.** Every rate filing (and supplementary filing) shall become the sole property of the Town and will be available to the public unless otherwise properly designated as "confidential" by Operator in accordance with applicable law. (Ord. 94-1, S5.1, Jan. 18, 1994)

**2.01.620 Confidential Information to be Submitted Separately.** The Operator shall submit information which it believes is confidential separately in a sealed envelope marked "confidential," or the Town will treat the information as public. (Ord. 94-1, S6.2, Jan. 18, 1994)

**2.01.630 After Filing Information cannot be Designated Confidential.** The Operator cannot designate information as "confidential" after a filing is made. (Ord. 94-1, S6.3, Jan. 18, 1994)

**2.01.640 Requests for Confidentiality.** The Council shall rule on requests for confidentiality. (Ord. 94-1, S6.4, Jan. 18, 1994)

**2.01.650 Appealing Confidentiality Denial.** If the Town receives a request for information submitted by the Operator as confidential and the Council determines that, in the Council's judgment, the designation is not appropriate under the applicable law, the Town will treat the information as public unless the Operator agrees to defend and indemnify the Town from any and all losses, liabilities, claims, judgments, and liens, including costs and expenses, arising out of or resulting from the Town's denial of a request for the information under Indiana's Public Records Law (I.C. 5-14-3). An Operator may appeal any decision that may result in release of information the Operator has designated as confidential within timelines contemplated within FCC regulations. (Ord. 94-1, S6.5, Jan. 18, 1994)

## Chapter 2.04

### VIDEO SERVICE FRANCHISE FEES

#### Sections:

**2.04.010 Video Service Franchise Fee**

**2.04.020 Additional Charges**

**2.04.030 Collection of delinquent fees and associated legal costs**

**2.04.040 Separability**

**2.04.010 Video Service Franchise Fee.** The existing video franchise fee of three percent (3%) of the gross revenue of a video franchise provider from providing video franchise services to Ferdinand is confirmed and ratified, effective as of the date any video service provider began providing video service in Ferdinand, using Town right-of-ways to provide such service, and shall apply to any video services in Ferdinand, using Town right-of-ways to provide such service, after the date this Ordinance is adopted. (Ord. 13-02, S1, Jan. 8, 2013)

**2.04.020 Additional Charges.** The video service franchise fee shall be in addition to and not in lieu of any additional or specific charge for use of or damage to Town infrastructure, including but not limited to utility pole rental fees. (Ord. 13-02, S2, Jan. 8, 2013)

**2.04.030 Collection of delinquent fees and associated legal costs.** In the event the Town files judicial or regulatory proceedings to enforce collection of delinquent video service franchise fees, it shall also be entitled to recover interest thereon at the legal rate, and its costs and attorney fees. (Ord. 13-02, S3, Jan. 8, 2013)

**2.04.040 Separability.** In the event any part of this Ordinance is determined to be invalid, other parts thereof shall remain valid, provided those parts can be given legal effect. (Ord. 13-02, S4, Jan. 8, 2013)

## Chapter 2.06

### MOBILE FOOD VENDORS

#### Sections:

- 2.06.010 Purpose of Chapter
- 2.06.020 Definitions
- 2.06.030 Permit Required
- 2.06.040 Application
- 2.06.050 Investigation of Applicant
- 2.06.060 Permit Fees
- 2.06.070 Insurance and Indemnity
- 2.06.080 Location Restrictions
- 2.06.090 Prohibited Hours
- 2.06.100 Standard of Conduct
- 2.06.110 Safety Requirements
- 2.06.120 Suspension; Revocation; Penalties
- 2.06.130 Right to Appeal
- 2.06.140 Exemption
- 2.06.150 Prior Ordinances
- 2.06.160 Separability
- 2.06.170 Effective Date

**2.06.010 Purpose of Chapter.** The purpose of this Chapter is to regulate the activities of individuals, firms, or corporations engaging in the practice of mobile food sales to sustain a safe and consistent standard of operation and to promote public health, safety; and welfare of the Town of Ferdinand, Indiana and the citizens and inhabitants thereof. The requirements of this Chapter are in addition to the requirements of the Mobile Food Vendor Rules issued by the Dubois County Health Department which are then in effect and a Mobile Food Vendor must comply with both. A Mobile Food Vendor must first obtain an approved permit from the Dubois County Health Department. No food can be prepared in or stored in any private home or non-permitted facility. (Ord. 2021-13, S2, Aug. 17, 2021)

**2.06.020 Definitions.** For the purpose of this Chapter, the following terms, phrases, words and abbreviations shall have the definitions given herein. When not inconsistent with the context, words used in the present tense include future tense, words in the plural number include the singular number and words in the singular number include the plural number:

- (1) “Town Council” shall refer to the Ferdinand Town Council.
- (2) “Town” shall refer to the Town of Ferdinand, Indiana.

- (3) “Park Board Approval” shall refer to the approval of the Ferdinand Park Board if permittee wishes to operate at 5<sup>th</sup> St. Park; 18<sup>th</sup> St. Park; or Old Town Lake.
- (4) “Food” shall mean any raw, cooked, or processed edible substance, ice, beverage, drink consumption.
- (5) “Food Caterer” shall refer to a person or company hired and paid to provide and serve food, usually for a large group and at a specific location address separate from where the food is prepared. A food caterer does not include someone preparing and selling food to individuals.
- (6) “Food Vending Pushcart” shall mean any box or container with wheels that is not propelled or moved by an engine and was designed and manufactured specifically for the purpose of selling food.
- (7) “Mobile Food Vehicle” shall mean a self-contained food establishment that is on wheels, self-propelled or moved by an engine, weighs no more than sixteen thousand (16,000) pounds, and for which the primary purpose of the vehicle is the sale and/or production of food.
- (8) “Mobile Food Vendor” (“Vendor”) includes any individual person, firm, or corporation who operates, sells, serves, or gives away food or beverages from any mobile food vending pushcarts and/or mobile food vehicles.
- (9) “Mobile Food Vendor Permit” (“Permit”) shall mean a permit which has been issued pursuant to the requirements of this chapter.
- (10) “Special Event” shall mean any event so designated by the Town Council or Park Board of Ferdinand, Indiana. Special Event shall include, but not be limited to, sports tourneys and league play, both of which rely upon their own concession stand business. (Ord. 2021-13, S3, Aug. 17, 2021)

#### **2.06.030 Permit Required.**

- (1) It shall be unlawful for a Mobile Food Vendor to engage in their respective businesses within the corporate limits of the Town of Ferdinand, Indiana, without obtaining a Mobile Food Vendor Permit from the Dubois Conty Health Department and then from the Town of Ferdinand in compliance with the provisions of this chapter. The obtaining of a permit by an employer or principal shall in no way relieve any employee or agent of that employer or principal of their legal obligation to obtain a permit, if their activity falls within the jurisdiction of this chapter.

- (2) A Mobile Food Vendor shall obtain a separate permit for each Mobile Food Vehicle and/or Food Vending Pushcart they wish to operate. All permits issued under the authority of this Chapter shall not be transferable.
- (3) If any permit holder desires to continue in business after the expiration of a permit, a new permit must be obtained as required under this Chapter.
- (4) Permits issued under the provisions of this chapter shall contain the information prescribed by the Town Council.
- (5) The Town Council reserves the right to determine if an application for a permit is satisfactory and complete or if it unfairly jeopardizes the fundraising efforts of an organization participating in a Special Event. Neither the Park Board nor the Town Council shall authorize a Mobile Food Vendor permittee to compete with concession stand business during league play or sports tourneys conducted on park property.
- (6) Each Mobile Food Vendor must obtain all necessary and required licenses prior to applying for the Town permit and must comply with all regulations established by the Dubois County Health Department and/or other regulatory bodies then in effect.
- (7) Nothing contained in the Chapter shall relieve a Mobile Food Vendor from obtaining other required licenses and/or permits from other regulatory bodies. (Ord. 2021-13, S4, Aug. 17, 2021)

**2.06.040 Application.** Applicants for any Mobile Food Vendor Permit under this Chapter must file a written sworn application signed by the applicant with Town Hall showing at minimum the following information:

- (1) The name, full address, telephone number, and email (if applicable) of the mobile food vending business, business owner, and business operator;
- (2) The intended locations of operation of the Mobile Food Vendor;
- (3) The duration of the permit being sought (specific dates listed);
- (4) The intended hours of operation of the Mobile Food Vendor;
- (5) The name, the telephone number, the email address of the private property owner (if applicable) and the full address of the private property on which the Mobile Food Vendor intends to operate, if applicable;
- (6) A complete menu of food being sold;
- (7) Proof of Dubois County Health Permit;

- (8) Proof of insurance, if operating on property owned and maintained by the Town, in compliance with the Town minimum insurance requirements;
- (9) Park Board Approval, if operating on park property;
- (10) Letter of approval from private property owner if operating on private property; and
- (11) Dated Mobile Food Vendor's signature verifying that they shall abide by the provisions of this Chapter. (Ord. 2021-13, S5, Aug. 17, 2021)

**2.06.050 Investigation of Applicant.**

- (1) Upon receipt by Town Hall of any application for a permit under the provisions of this Chapter, the Ferdinand Police Department may investigate a Mobile Food Vendor's criminal history and moral character as it deems necessary for the protection of the public good and welfare.
- (2) If, as a result of the investigation, the applicant's moral character and business responsibility are found to be such as to endanger or be detrimental to the public and its good and welfare, the permit shall be denied or, if issued, revoked by the Ferdinand Police Department. (Ord. 2021-13, S6, Aug. 17, 2021)

**2.06.060 Permit Fees.**

- (1) Each applicant shall pay a permit fee in accordance with the schedule set forth below:
  - A. One Week Permit: \$ 25.00
  - B. 30 Day Permit: \$ 50.00
  - C. 90 Day Permit: \$ 120.00
  - D. One Year Permit: \$ 240.00
- (2) A permit becomes active for a consecutive period of time on the day that the permit is approved. Applicant shall indicate the specific dates of anticipated use.
- (3) In the event the permit is revoked, the Town shall retain all funds. No refund will be given in the event of inclement weather.

- (4) No permit shall be issued until the permit fee has been paid. (Ord. 2021-13, S7, Aug. 17, 2021)

**2.06.070 Insurance and Indemnity.**

- (1) Applicants operating on property owned and maintained by the Town shall provide a certificate of liability upon approval of the permit which shall insure the applicant and name the Town of Ferdinand, Indiana, as additional insured, against the following liabilities and in the following amounts relative to such activity:
  - A. General Liability: \$ 1,000,000.00;
  - B. Automotive Liability: \$ 1,000,000.00; and
  - C. Proof of Workers Compensation.
- (2) Mobile Food Vendors who are operating a Food Vending Pushcart are exempt from providing proof of automotive liability insurance. Mobile Food Vendors who are self-employed and have no additional employees are exempt from providing proof of workers compensation-insurance. (Ord. 2021-13, S8, Aug. 17, 2021)

**2.06.080 Location Restrictions.**

- (1) Mobile Food Vendors shall be permitted to operate on Town property pursuant to the map and schedule attached as Exhibit A.
- (2) Mobile Food Vendors may make special requests to operate on other locations owned and maintained by the Town of Ferdinand, Indiana not listed on Exhibit A.
- (3) The Town shall have the authority to designate other locations of permitted operation for Special Events.
- (4) With written consent of the property owners, Vendors may operate on private property that is in a commercial or agricultural or industrial zone.
- (5) Where a Vendor seeks to operate in a right of way, the Vendor shall not impede the use of a street, alleyway, and/or sidewalk.
- (6) Vendors shall abide by the Sight Visibility Triangle standards set forth in the municipal code.
- (7) No Mobile Food Vendor shall operate within 100 feet of a Special Event, unless granted approval by the coordinator of the Special Event.



- (8) No Mobile Food Vendor shall locate themselves in an area that significantly impedes or prevents the use of any Town property, or which could endanger the safety and/or property of the public.
- (9) No Mobile Food Vender shall locate themselves in Residentially Zoned areas. (Ord. 2022-14, May 17, 2022) (Ord. 2021-13, S9, Aug. 17, 2021)

#### **2.06.090 Prohibited Hours.**

- (1) Mobile Food Vendors are prohibited from operating or parking on any property owned and maintained by the Town between the hours of 11:00 p.m. and 6:00 a.m.
- (2) Mobile Food Vendors may make special requests to the Town Council to operate during prohibited hours.
- (3) Mobile Food Vendors cannot leave their pushcart or vehicle unattended and/or parked and not open for business for more than ten (10) hours before opening or ten (10) hours after closing, provided, however the park curfew of 11:00 p.m. remains in full force and effect. (Ord. 2021-13, S10, Aug. 17, 2021)

#### **2.06.100 Standard of Conduct.**

- (1) Mobile Food Vendors shall conduct themselves at all times in an orderly and lawful manner.
- (2) Mobile Food Vendors are prohibited from using a device or machine to produce unreasonable amounts of sound or light (such as but not limited to bull horns, strobe lights, and neon signs).
- (3) Mobile Food Vendors are required to obey the commands of law enforcement and code enforcement officials.
- (4) No Mobile Food Vendors shall provide tables, seating, or any other dining arrangements.
- (5) No Mobile Food Vendor shall sell or otherwise provide alcoholic beverages.
- (6) Mobile Food Vendors must provide waste receptacles that are sufficient in size for both customer and employee waste. Mobile Food Vendors shall not use Town waste receptacles.
- (7) Mobile Food Vendors are responsible for the disposal of waste that is generated by the use of their waste receptacles.

- (8) Mobile Food Vendors are prohibited from disposing of any food, liquid, or other waste materials in sanitary and/or storm water sewers.
- (9) Mobile Food Vendors are permitted one sandwich board, which may not exceed five (5) feet in height and three (3) feet in width, or fifteen (15) square feet in area. In addition, the sandwich board must be within ten (10) feet of the Food Vending Pushcart or Mobile Food Vehicle and cannot impede pedestrian or vehicular traffic.
- (10) Mobile Food Vendors shall not utilize any Town or private electrical outlets while in operation. All electrical needs must be self-generated.
- (11) Mobile Food Vendors operating electrical equipment are required to use heavy-duty extension cords.
- (12) Mobile Food Vendors may operate a generator that produces no more than seventy-five (75) decibels.
- (13) Mobile Food Vendors must be parked a minimum of ten (10) feet away from nearby buildings or other Food Vending Pushcarts and/or Mobile Food Vehicles.
- (14) Mobile Food Vehicles operating deep frying appliances must be parked a minimum of twenty (20) feet away from nearby buildings or other Food Vending Pushcarts and/or Mobile Food Vehicles.
- (15) Mobile Food Vendors must be parked a minimum of one hundred (100) feet from the entrance of a restaurant or from an outdoor dining area.
- (16) Mobile Food Vendors must be parked a minimum of fifteen (15) feet from a fire hydrant.
- (17) Mobile Food Vendors are prohibited from smoking within eight (8) feet of their Mobile Food Vehicle or Food Vending Pushcart.
- (18) No Food Vending Pushcart or Mobile Food Vehicle shall operate with a drive through.
- (19) Mobile Food Vendors must display their permit at all times while in operation.
- (20) Food Vending Pushcarts and Mobile Food Vehicles can be inspected by the Ferdinand Police Department or Ferdinand Fire Department when deemed necessary. (Ord. 2021-13, S11, Aug. 17, 2021)

### **2.06.110 Safety Requirements.**

- (1) All Mobile Food Vehicles must have an adequately rated fire extinguisher.
- (2) Mobile Food Vehicles operating deep fryer appliances must have a Class K rated fire extinguisher.
- (3) Each fire extinguisher provided by a Mobile Food Vendor shall have a label or tag securely attached that indicates the last time it was serviced. The label or tag must state the month the service took place and the individual, firm, or corporation responsible for servicing it. All fire extinguishers must have been serviced and validated within the last twelve (12) months.
- (4) Mobile Food Vehicles must have all fire extinguishers mounted at a minimum of three (3) feet in height and a maximum of five (5) feet in height.
- (5) Follow appropriate Dubois County safety regulations for food preparation and storage. (Ord. 2021-13, S12, Aug. 17, 2021)

### **2.06.120 Suspension; Revocation; Penalties.**

- (1) Permits issued under the provision of this Chapter may be revoked by the Town Council, Ferdinand Police Department or Ferdinand Fire Department after notice and hearing for any of the following causes:
  - A. Fraud, misrepresentation, or false statements contained in the application for the permit.
  - B. Fraud, misrepresentation, or false statements made in the course of the business for which the permit is issued.
  - C. Any violation of any of the provisions of this Chapter.
  - D. Conducting the business for which the permit is issued in an unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety, or general welfare of the public.
- (2) Notice of hearing for revocation of a permit shall be given, in writing, setting forth specifically the grounds of the complaint and the time and place of the hearing. The notice shall be mailed, postage prepaid, to the permit holder at their last known address, at least five (5) days prior to the date set for the hearing.

(3) A. Penalties. Any individual, firm, or corporation convicted of a violation of any provision of this chapter shall be fined in a sum not less than the applicable amount set forth below:

1. First Offense: \$ 25.00
2. Second Offense: \$ 100.00
3. Third Offense: \$ 300.00
4. Fourth Offense: \$ 600.00

Each day any violation of this chapter continues shall be considered a separate offense. The Town of Ferdinand, Indiana, shall also have the right to recover the costs of administering this offense, including but not limited to, filing fees and attorney fees.

B. Enforcement. Upon determination by the Town Council, Park Board, Ferdinand Fire Department or Ferdinand Police Department that there exists an emergency and that for the protection of the public welfare any permit should be immediately suspended, either may forthwith suspend the permit pending hearing as provided for in this Chapter.

C. Administrative Liability. No officer, agent or employee of the Town of Ferdinand, Indiana, shall render themselves personally liable for any damage that may occur to persons or property, as a result of any act required or permitted in the discharge of their duties under this chapter. Any suit brought against any officer, agent or employee of the Town of Ferdinand, Indiana, as a result of any act required or permitted in the discharge of their duties under this chapter, shall be defended by the Town of Ferdinand until the final determination of the proceedings therein. (Ord. 2021-13, S13, Aug. 17, 2021)

**2.06.130 Right to Appeal.** Any individual, firm, or corporation aggrieved by a decision in regard to the denial or revocation of a permit as provided for herein shall have the right to appeal to the Town Council. Appeal shall be taken by filing with the Town Council, within fourteen (14) days after notice of the decision has been mailed to the last known address of the individual, firm, or corporation, a written statement setting forth the grounds for the appeal. The Town Council shall set the time and place for a hearing on the appeal and notice of the hearing shall be given to the individual, firm, or corporation in the manner provided for in herein for notice of bearing on revocation. The order of the Town Council on the appeal shall be final. (Ord. 2021-13, S14, Aug. 17, 2021)

**2.06.140 Exemption.**

- (1) Ice cream trucks, caterers, food delivery drivers, and other food service vehicles that do not park or locate in any one place for longer than ten (10) minutes are exempt from the jurisdiction of this Chapter.
- (2) Lemonade stands, bake sales, and other stands operated by children for the purpose of selling homemade foods are exempt from the jurisdiction of this Chapter.
- (3) Approved vendors for Town-sponsored events such as the Folk Fest are not required to additionally apply for a food truck permit in order to participate as a vendor for that Town-sponsored event.
- (4) Non-motorized trailers which serve an ancillary use to a Food Vendor at a Special Event designated by the Town Council or Park Board (i.e. additional utensil, food items or equipment storage) are exempt from the jurisdiction of this Chapter. (Ord. 2021-13, S15, Aug. 17, 2021)

**2.06.150 Prior Ordinances.** All ordinances and/or parts of ordinances in conflict herewith are hereby repealed. (Ord. 2021-13, S16, Aug. 17, 2021)

**2.06.160 Separability.** If any section, sub-section, sentence, clause, phrase or portion of this Chapter shall for any reason be held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions hereunder. (Ord. 2021-13, S17, Aug. 17, 2021)

**2.06.170 Effective Date.** This Ordinance shall be in full force and effect from and after its passage by the Town Council, and completion of any other legal requirements, all in the manner as provided by law. (Ord. 2021-13, S18, Aug. 17, 2021)

## MOBILE FOOD VENDOR PERMIT APPLICATION

<b>PART A IDENTIFICATION</b>			
<b>Name of Business</b>			
Address of Business (if applicable)	City	State	Zip
<b>Phone Number</b>		<b>Email Address</b>	
<b>Name of Operator (required)</b>			
Address	City	State	Zip
<b>Phone Number</b>		<b>Email Address</b>	

<b>PART B. DETAILS</b>			
<b>LOCATIONS OF OPERATION</b> (Check all that apply) <input type="checkbox"/> 5 <sup>TH</sup> St. Park <input type="checkbox"/> 18 <sup>th</sup> St. Park <input type="checkbox"/> Old Town Lake <input type="checkbox"/> Town Hall P. Lot <input type="checkbox"/> Private Property <input type="checkbox"/> Other:	<b>PERMIT DURATION</b> <input type="checkbox"/> One Week: \$ 25.00 <input type="checkbox"/> 30 Days: \$ 50.00 <input type="checkbox"/> 90 Days: \$120.00 <input type="checkbox"/> One Year: \$240.00	<b>Hours of Operation</b>  From:                      to  <b>List Dates:</b> <i>*Prohibited hours of operation: 11:00 p.m. to 6:00a.m.</i>	<b>Food Vending Method</b>  <input type="checkbox"/> Food Vending Pushcart <input type="checkbox"/> Mobile Food Vehicle

<b>PART C. REQUIREMENTS</b>			
<b>Private Property Owner</b>			
<b>Phone Number</b>		<b>Email Address</b>	
<b>Please include the following items with your completed application:</b> <input type="checkbox"/> Complete menu of food being sold. <input type="checkbox"/> Proof of Dubois County Health Permit. <input type="checkbox"/> Proof of Park Board Approval, if park property. <input type="checkbox"/> Proof of insurance, if applicable. <input type="checkbox"/> Letter of approval If operating on non-park property of the Town of Ferdinand. <input type="checkbox"/> Letter of approval from private property owner If operating on private property.			

Owner's Certificate: <i>I hereby certify that I as a Mobile Food Vendor shall abide by the provisions Municipal Code.</i>	
Applicant's Signature: <b>X</b> _____	Date: _____

<b>FOR OFFICE USE ONLY</b>		
<b>Approval:</b>	<b>Approval Date:</b>	<b>Permit Number:</b>

# Mobile Food Vendor Location Map

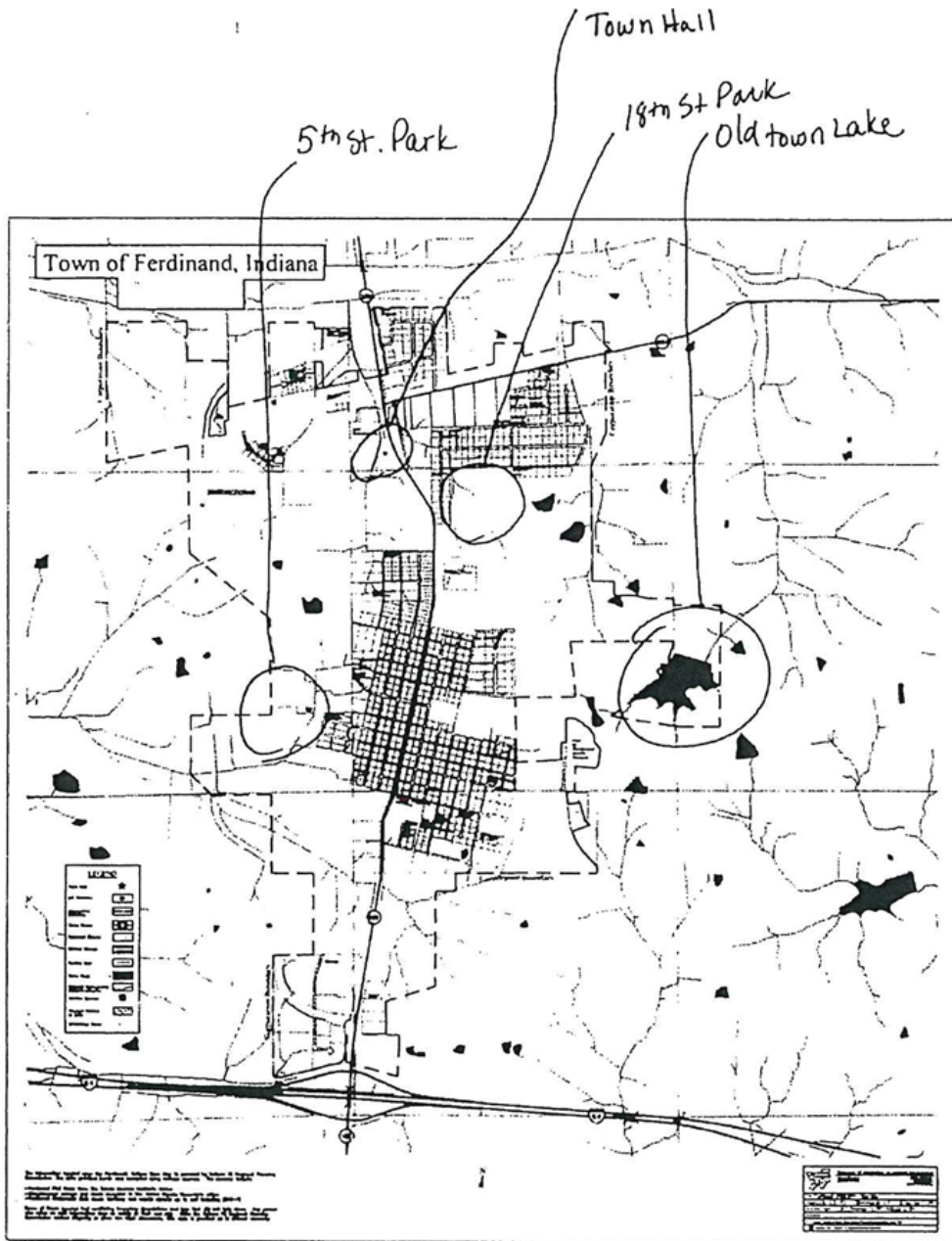


EXHIBIT  
A

## Chapter 2.08

### Commercial Solar Energy Systems

#### Sections:

- 2.08.010 Definitions
- 2.08.020 CSC System Siting Limits
- 2.08.030 CSC System Site Vegetation Plan
- 2.08.040 Enclosure of CSC System
- 2.08.050 Location of CSC System Infrastructure
- 2.08.060 Minimizing Glare and Vehicular Traffic Disruption by SCE Systems
- 2.08.070 CSC System Mitigation Requirements
- 2.08.080 CSC System Sound Limits
- 2.08.090 Repair of Damage Related to CSC Systems
- 2.08.100 CSC System Decommission Plans and Site Restoration Plans
- 2.08.110 CSC System Abandonment
- 2.08.120 Responsibilities of Project Owner
- 2.08.130 Severability
- 2.08.140 Date of Effect

**2.08.010 Definitions.** For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

- (1) As used in this Chapter, “commercial solar energy system” or “CSE system” means a system that:
  - A. has a nameplate capacity of at least ten (10) megawatts; and
  - B. captures and converts solar energy into electricity;
    - 1. for the purpose of selling the electricity at wholesale; and
    - 2. for use in locations other than where it is generated.

The term “commercial solar energy system” or “CSE system” includes solar panels, collection and feeder lines, generation tie lines, substations, ancillary buildings, solar monitoring stations, and accessory equipment or structures.

- (2) As used in this Chapter, “commercial solar regulation” refers to any ordinance or regulation, including any:
  - A. zoning or land use ordinance or regulation; or
  - B. general or specific planning ordinance or regulation; that is adopted by a unit and that concerns the permitting, construction, installation,



siting, modification, operation, or decommissioning of CSE systems in the unit.

- (3) As used in this Chapter, “dwelling” means any building, structure, or part of a building or structure that is occupied as, or is designed or intended for occupancy as, a residence by one (1) or more families or individuals.
- (4) As used in this Chapter, “nonparticipating property” means a lot or parcel of real property;
  - A. that is not owned by a project owner; and
  - B. with respect to which:
    - 1. the project owner does not seek:
      - (a) to install or locate one (1) or more CSE systems or other facilities related to a CSE system project (including power lines, temporary or permanent access roads, or other temporary or permanent infrastructure); or
      - (b) to otherwise enter into a lease or any other agreement with the owner of the property for use of all or part of the property in connection with a CSE system project; or
    - 2. the owner of the property does not consent:
      - (a) to having one (1) or more CSE systems or other facilities related to a CSE system project (including power lines, temporary or permanent access roads, or other temporary or permanent infrastructure) installed or located; or
      - (b) to otherwise enter into a lease or any other agreement with the project owner for use of all or part of the property in connection with a CSE system project.

The term “nonparticipating property” does not include a lot or parcel of real property otherwise described in subsection (1) if the owner of the lot or parcel consents to participate in a CSE system project through a neighbor agreement, a participation agreement, or another similar arrangement or agreement with a project owner.

- (5) As used in this Chapter, “permit authority” means:
  - A. a unit;

- B. the Ferdinand Town Council; or
- C. a board, a commission, or any other governing body of a unit; that makes legislative or administrative decisions concerning the permitting, construction, installation, siting, modification, operation, or decommissioning of CSE systems in the unit.

The term permit authority does not include:

- A. the state or any of its agencies, departments, boards, commissions, authorities, or instrumentalities; or
- B. a court or other judicial body that reviews decisions or rulings made by a permit authority.

(6) As used in this Chapter, “project owner” means a person that:

- A. will own one (1) or more CSE systems proposed to be located in a unit; or
- B. owns one (1) or more CSE systems located in a unit.

The term “project owner” includes an agent or a representative of a person described in herein.

The term “project owner” does not include an electricity supplier (as defined in I.C. § 8-1-2-32).

(7) As used in this Chapter, “unit” refers to:

- A. Ferdinand, Indiana, if a project owner, as part of a single CSE system project or development, seeks to locate one (1) or more CSE systems: entirely within the corporate boundaries of the Town of Ferdinand.

(8) The term “unit” refers to:

- A. Each municipality described herein in which a project owner seeks to locate one (1) or more CSE systems, if the project owner seeks to locate CSE systems in more than one (1) jurisdiction as part of a single CSE system project or development.

(9) As used in this Chapter, “force majeure event” includes the following:

- A. Fire, flood, tornado, or other natural disasters or acts of God.
- B. War, civil strife, a terrorist attack, or other similar acts of violence.

- C. Other unforeseen events or events over which a project owner has no control. (Ord. 2022-37, S1, Oct. 18, 2022)

**2.08.020 CSE System Siting Limits.** The Default Standards for CSE system siting limits established by I.C. § 8-1-42-10 are adopted. (Ord. 2022-37, S2, Oct. 18, 2022)

**2.08.030 CSE System Site Vegetation Plan.** The Default Standards for CSE system site vegetation plan established by I.C. § 8-1-42-11 are adopted. (Ord. 2022-37, S3, Oct. 18, 2022)

**2.08.040 Enclosure of CSE System.** The Default Standards for enclosures of CSE system established by I.C. § 8-1-42-12 are adopted. (Ord. 2022-37, S4, Oct. 18, 2022)

**2.08.050 Location of CSE System Infrastructure.** The Default Standards for locations of CSE system infrastructure established by I.C. § 8-1-42-13 are adopted. (Ord. 2022-37, S5, Oct. 18, 2022)

**2.08.060 Minimizing Glare and Vehicular Traffic Disruption by CSE Systems.** The Default Standards for minimizing glare and vehicular traffic disruption by CSE systems established by I.C. § 8-1-42-14 are adopted. (Ord. 2022-37, S6, Oct. 18, 2022)

**2.08.070 CSE System Mitigation Requirements.** The Default Standards for CSE system mitigation requirements established by I.C. § 8-1-42-15 are adopted. (Ord. 2022-37, S7, Oct. 18, 2022)

**2.08.080 CSE System Sound Limits.** The Default Standards for CSE system sound limits established by I.C. § 8-1-42-16 are adopted. (Ord. 2022-37, S8, Oct. 18, 2022)

**2.08.090 Repair of Damage Related to CSE Systems.** The Default Standards for repair of damage related to CSE systems established by I.C. § 8-1-42-17 are adopted. (Ord. 2022-37, S9, Oct. 18, 2022)

**2.08.100 CSE System Decommission Plans and Site Restoration Plans.** The Default Standards for CSE system decommission plans and site restoration plans established by I.C. § 8-1-42-18 are adopted. (Ord. 2022-37, S10, Oct. 18, 2022)

**2.08.110 CSE System Abandonment.** The Default Standards for CSE system abandonment established by I.C. § 8-1-42-19 are adopted. (Ord. 2022-37, S11, Oct. 18, 2022)

**2.08.120 Responsibilities of Project Owner.** The Default Standards for the responsibilities of Project Owner due to a Force Majeure Event established by I.C. § 8-1-42-20 are adopted. (Ord. 2022-37, S12, Oct. 18, 2022)

**2.08.130 Severability.** Should any section, paragraph, sentence, clause, or phrase of this Chapter be declared unconstitutional or invalid for any reason, the remainder of said

Chapter shall not be affected thereby and shall remain in full force and effect. (Ord. 2022-37, S13, Oct. 18, 2022)

**2.08.140 Date of Effect.** Effective July 1, 2022, this Chapter shall be in full force and effect from and after its passage, and approval, according to the laws of the State of Indiana. (Ord. 2022-37, S14, Oct. 18, 2022)